

Holland & Knight

50 North Laura Street, Suite 3900 | Jacksonville, FL 32202 | T 904.353.2000 | F 904.358.1872
Holland & Knight LLP | www.hklaw.com

Frank E. Morreale
+1 904-798-5466
Frank.Morreale@hklaw.com

August 4, 2022

The Honorable Katherine Polk Failla, U.S.D.J.
United States District Court,
Southern District of New York
40 Foley Square, Room 2103
New York, NY 10007

MEMO ENDORSED

Re: *Scalercio-Isenberg v. Goldman Sachs Mortgage Co., et ux.*, No. 21-cv-4124-KPF

Dear Judge Failla:

We represent Defendants and write pursuant to Rule 2.c of Your Honor's Individual Rules of Practice in Civil Cases in reply to Plaintiff's "Urgent Motion to Compel" (Doc. 43, filed Aug. 2, 2022 (the "Motion")). Defendants respectfully request that the Motion be denied for the same reasons set forth in Defendants' response to Plaintiff's prior motion to compel (Doc. 38, "the Prior Motion"). Precisely as was the case in the Prior Motion, Plaintiff fails to state facts connected to Defendants that justify a court order, relying instead on innuendo and conclusory statements regarding the actions of people and entities with no affiliation with Defendants.

The affidavits filed in connection with the Prior Motion and the legal argument of Defendants' pending motion to dismiss confirm that Defendants do not have currently have any interest in, or control of, the mortgage loan or the mortgage servicer. (*See* Docs. 35, 37 and 39.) Defendants also cannot control counsel chosen by a non-party for a foreclosure action that was filed in Superior Court of New Jersey, Chancery Division, Sussex County. As this Court correctly explained in denying the Prior Motion, "Plaintiff has provided only speculation concerning Defendants' involvement in the alleged harassment. The Court is without the power to compel a party to cease conduct that it has not engaged in. Accordingly, Plaintiff's motion to compel is DENIED." (*See* Doc. 42.)

We, again, confirm that Defendants were not involved in an attempt to serve a summons and complaint at Plaintiff's residence, and are not otherwise involved in the New Jersey foreclosure action. For this reason alone, the motion should be denied. Defendants further respectfully submit that Plaintiff, a frequent litigant in this Court, is aware that Your Honor should not have been burdened with this particular matter for two additional reasons. First, any issues regarding service of process for a different action in a different jurisdiction should be directed to foreclosure counsel identified on the summons or the Superior Court of New Jersey, Chancery Division, Sussex County, not this Court. The attachment to Plaintiff's motion (*see* Doc. 43-1)

The Honorable Katherine Polk Failla

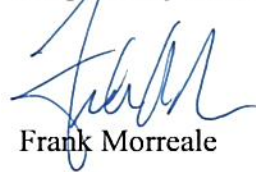
August 4, 2022

Page 2

appears to be a summons addressed to her husband; it provides foreclosure counsel's contact information and the name of the court with jurisdiction of the foreclosure action. The only reference to either defendant appears to be Plaintiff's handwritten notation, "Goldman Sachs Exhibit." That document does not justify burdening this Court. Second, Plaintiff has already addressed the service issues with foreclosure counsel (*i.e.*, counsel representing the plaintiff in the New Jersey foreclosure action) by e-mail complaining of the same service of process issues raised by the Motion. Plaintiff then forwarded the e-mail to Defendants' counsel.¹ Defendants respectfully submit that this most recent dispute is between Plaintiff and a non-party to this civil action, not Defendants. There is simply no controversy properly before this Court.

We remain available to discuss further at Your Honor's request.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Frank Morreale", is written over the typed name.

Frank Morreale

Enclosure

cc: Sherry Scalercio-Isenberg (by e-mail) (with enclosure)

¹ A copy of those e-mails (without the attachment) is enclosed for the Court's review as Exhibit 1.

Morreale, Frank E (JAX - X25466)

From: sherryisenberg@ptd.net
Sent: Wednesday, August 3, 2022 8:35 AM
To: Morreale, Frank E (JAX - X25466)
Subject: PLEASE TAKE NOTICE
Attachments: AUGUST 2022 LEGAL DISPUTE.pdf

[External email]

****Mr. Moreale, please note the email below to Duane Morris Counsel, the same applies to you, I need not repeat the details. Be guided. Sherry.**

From: sherryisenberg@ptd.net <sherryisenberg@ptd.net>
Sent: Wednesday, August 3, 2022 8:26 AM
To: 'Fialkoff, Kassia' <KFialkoff@duanemorris.com>; 'Messinger, Brett L.' <BLMessinger@duanemorris.com>
Subject: FW: AUGUST 2022 LEGAL DISPUTE SPS MORTGAGE SERVICING FRAUD & CREDITOR - GOLDMAN SACHS

Attention: Duane Morris Counsel, you have failed to file a NOA and are responsible for hiring the guy to harass me, DESPITE, my previous Legal Dispute under 15USC 1692(g) The Sparta Police escorted the guy you hired off our Home property on August 2,2022.

In commensurate response, I have hired Personal Security whom. will be taking photos of you at your place of business or Home office in order to track your where-abouts and protect me from the potential physical harm you have initiated thus far.

SPS EXECUTIVES and Legal Counsel,

Please take notice of the Legal Dispute attached hereto, and your continuous Mortgage Servicing violations with Fraud, noted on the July/August 2022 Mortgage statement.

Be Guided Accordingly,

Sherry Scalercio-Isenberg
CEO of TWCG,LLC
Cell Phone: 973-534-7095
Office Phone 973-729-1319
EMAIL:
SherryIsenberg@PTD.NET
OR
SHERRY@THEWALLSTREETCAPITALGROUP.COM

Website: www.thewallstreetcapitalgroup.com

end**

The Court is in receipt of Plaintiff's letter motion dated August 2, 2022 (Dkt. #43), and Defendants' response (Dkt. #44). For substantially the same reasons underpinning the Court's prior ruling on Plaintiff's motion to compel dated March 10, 2022 (Dkt. 42), Plaintiff's motion is DENIED.

The Clerk of Court is directed to terminate the pending motion at docket entry 43.

Dated: August 5, 2022
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE